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EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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Commissioner

**DEP FEES AND PROGRAM IMPROVEMENTS
REGULATION PACKAGE 2004-1**

With proposed amendments to:

**310 CMR 4.00, TIMELY ACTION SCHEDULE AND FEE PROVISIONS
and
801 CMR 4.02 WETLANDS FEES**

May 19, 2004

FOR AGENCY REVIEW AND PUBLIC HEARING



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I. SUMMARY OF PROPOSED AMENDMENTS

Massachusetts General Law (M.G.L.) chapter 21A, section 18 authorizes the Department of Environmental Protection to establish permitting and compliance fees, and schedules for timely action on permit applications. Departmental fees are established by regulation in 310 CMR 4.00 et seq. The purpose of these regulations is to provide for the orderly and efficient administration of the regulatory programs administered by the Department thereby contributing to the protection of the public health and safety and of the environment.

Bureau of Resource Protection

Wetlands

The Department is proposing to increase Wetlands program fees to reflect the increased cost to the Department of processing Wetlands permits. The Notice of Intent (NOI) and the Abbreviated Notice of Intent application fees will increase based on the increase in personnel costs since the fee was originally set in 1989. For the request for a Superceding Order of Conditions (SOC), the fee is being increased to more accurately reflect both the level of staff effort required to process a request and the increased Department salary level. The permit application fee for a SOC will increase from \$50 to \$200 for individual single-family homes and to \$500 for all others. While the fee increase for the Superceding Order of Conditions is substantial, it is still significantly below the actual processing cost to the Department. Fees for Superceding Order of Resource Area Delineation, Superceding Determination of Applicability, and Wetlands Variance categories are also being increased to reflect increased costs. These proposed fee increases will provide an estimated \$1.2 million in additional revenue annually to the Department. Since Wetlands fees are split with local Conservation Commissions, the increased fees will provide approximately the same level of additional revenue to local commissions. Retained revenue account 2200-0102 has been proposed in House 1A to reflect the increase in Department fee revenue. Wetlands fee regulations are being deleted from ANF regulations at 801 CMR 4.02 and added to DEP regulations at 310 CMR 4.00.

Water Pollution Control

The proposed amendments 1) establish presumptive approvals and amend permit review schedules for Title 5, septic system permit categories BRPWP57, BRPWP59, and BRPWP64 in order to conserve program resources and expedite permit issuance for routine cases; 2) delete parallel septic tank approvals under WP59; 3) simplify the permitting process for BRPWP61 alternative technologies by eliminating the need for Individual Rule Project agreements and establish a flat \$1500 fee; 4) eliminate permit category BRPWP65 for the approval of a system for a single family dwelling with an alternate percolation rate to correspond to changes in program regulations at 310 CMR 15.417; 5) add new category for WP70, alternative flow design; and 6) eliminate permit categories for proposed outsourced activities under BRPWP46 for wastewater treatment plant operators certification through exam and BRPWP69, certification renewal.

Drinking Water Program

The proposed amendments streamline the permit review process for the development of new public water supplies by combining category BRPWS18 with BRPWS17, eliminating BRPWS18 and amending BRPWS20 to allow for

concurrent review with permit category BRPWS19 new source approvals. Under the category for BRPWS06, registrations for underground injection wells, the fee is split into three proposed fees that correspond with the level of staff time required for permit review; a category for Pre-closure Notification is added; and residential facilities up to four units are excluded.

Bureau of Waste Prevention

Air Quality Control

An administrative correction is proposed to add the word “potential” to the minor source annual compliance fee category on page 74.1.

Hazardous Waste

Proposed changes to the Department’s fee regulations correspond to recently promulgated revisions to the hazardous waste regulations at 310 CMR 30.000. Amendments include the addition of a 30 day public comment period under the review timelines for BWPHW25, citation amendments to BWPHW07, 08, 09, 10, 11, 20, 21, and 25 and schedule corrections to HW10.

Bureau of Waste Site Cleanup

An administrative correction is proposed to provisions for billing annual fees for Response Action Outcomes achieved separate from the filing of the RAO statement.

II. SCHEDULE FOR PROMULGATING REGULATIONS

Hearing draft of proposed regulations submitted to EOEA and A&F for review	February 23, 2004
Mail notification of hearing and proposed amendments to all appropriate agencies, groups and interested parties as required.	May 7, 2004
Hearing notice published in newspapers and posted along with proposed regulations on DEP website.	May 21, 2004
Hearing Notice Published in MA Register.	June 4, 2004
Public Hearings.	June 14, 2004
	June 15, 2004
	June 16, 2004
End of public comment period.	June 28, 2004
Public comment document and proposed final regulation amendments submitted for EOEA and A&F review and approval.	July 15, 2004
Filing Form submitted to Secretary of the Commonwealth.	July 30, 2004
Final amendment text published in the MA Register.	August 13, 2004

III. NOTICE OF PUBLIC HEARING

The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Protection
And Executive Office for Administration and Finance

NOTICE

Notice is hereby given that the Executive Office of Environmental Affairs, Department of Environmental Protection and the Executive Office for Administration and Finance, acting in accordance with the provisions of M.G.L. Chapter 21A, § 18, M.G.L.c.131§40, MGL c. 7 § 3B and Chapter 21E, § 3B, will hold public hearings on amendments to 310 CMR 4.00, Timely Action Schedule and Fee Provisions; 801 CMR 4.02, Wetlands Fees; 310 CMR 1.01, Administrative Proceeding Rules; and 310 CMR 10.00, Wetland Regulations.

The proposed amendments will increase, decrease, add, delete, or otherwise amend review schedules and fees for Wetlands, Water Pollution Control/Title 5, Wastewater Treatment Plant Operator Certification, Hazardous Waste, Water Supply, Air Quality, and Waste Site Cleanup Programs. Amendments to adjudicatory proceeding rules include provisions to allow prescreening of cases, clarify requirements for filing a notice of claim, increase availability of simplified hearings, add procedures for mediation, revise outdated references, and other reforms. Amendments to the wetland regulations include revised standards for work in the buffer zone, simplified review for work in the buffer zone, guidance on the discretion of resource area alteration, additional references to the stormwater management standards, references to mouth of coastal river maps, clarification of enforcement provisions, revisions to parties who may request adjudicatory hearings, and other administrative changes.

Public hearings will be conducted under the provisions of Chapter 30A of the Massachusetts General Laws on:

June 14, 2004 -- Boston -- 10:00 a.m.

Department of Environmental Protection, One Winter Street

June 15, 2004 -- Springfield -- 10:00 a.m.

Department of Environmental Protection, Western Regional Office, 436 Dwight St.

June 15, 2004 -- Worcester - 2:00 p.m.

Department of Environmental Protection, Central Regional Office, 627 Main St.

June 16, 2004 -- Lakeville - 10:00 a.m.

Department of Environmental Protection, Southeast Regional Office, 20 Riverside Drive

Testimony may be presented orally or in writing at the public hearings. In addition, written comments will be accepted until 5:00 p.m. on June 28, 2004 at the Department of Environmental Protection, Office of Budgetary and Legislative Affairs, 2nd Floor, One Winter Street, Boston, MA 02108.

Copies of the regulation amendments and background documents will be available in the Calendar on the DEP website at www.state.ma.us/dep and during normal business hours at the DEP Boston Info Center and the following regional office Service Centers:

DEP Northeast Region, One Winter St., Boston, MA (617) 654-6500

DEP Southeast Region, 20 Riverside Drive, Lakeville, MA (508) 946-2714

DEP Western Region, 436 Dwight Street, Suite 402, Springfield, MA (413) 784-1100 x 2214

DEP Central Region, 627 Main Street, Worcester, MA (508) 792-7683

This information is available in alternate format upon request to: ADA Coordinator, BAS/HR, 4th floor, One Winter Street, Boston, 02108 at (617) 556-1057.

For special accommodations for this event, call (617) 556-1067/One Winter Street, 3rd Floor, Boston, MA 02108. The DEP Boston Info Center may be reached at 1-800-462-0444.

By order of the Department
Robert W. Golledge, Jr., Commissioner

IV. AMENDMENTS TO 310 CMR 4.00
TIMELY ACTION SCHEDULE AND FEE PROVISIONS

Established pursuant to M.G.L. Chapter 21A, § 18,
M.G.L. Chapter 21E, § 3B and M.G.L.c.131 §40

5/13/04 INDEX TO AMENDMENTS REGULATION PACKAGE 2004-1

page	section	category	description of change
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Purpose, authority and General Provisions

71	4.01(2)	wetlands	add M.G.L.c.131§40 (wetlands) to Authority for the Notice of Intent
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Annual Compliance Assurance Fees

74	4.03(1)(e)	WSC	add clarification to provisions for billing annual fees to include when a Response Action Outcome is achieved separate from the filing of the RAO Statement
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74.1	4.03(2) Table	AQ	Minor - add missing reference to potential emissions
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Alternative Project-Specific Schedule and Fees

86	4.05		add exclusion for wetlands NOI permit
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Schedule for Timely Action and Permit Application Fees effective August 13, 2004

94.4	4.10(3)(a)(1)	HW21	<u>Hazardous Waste Recycling:</u> correct citations to reflect program regulation changes in 310 CMR 30.000
95-6	4.10(3)(d)(1)	HW25	<u>Hazardous Waste Recycling:</u> add public comment/hearing review period and correct citations
98	4.10(3)(k)	HW07	<u>Hazardous Waste Treatability Study:</u> correct citations
99	4.10(3)(l)	HW08	<u>Hazardous Waste TSD License:</u> correct citations
99	4.10(3)(m)	HW09	<u>Hazardous Waste TSD Class I Modification:</u> correct citations
100	4.10(3)(n)	HW10	<u>Hazardous Waste TSD Class II Modification:</u> correct citations and review schedule to 120-60-45
100	4.10(3)(o)	HW11	<u>Hazardous Waste TSD Class III Modification:</u> correct citations
100	4.10(3)(q)	HW20	<u>Hazardous Waste Research Facility:</u> correct citations
121	4.10(5)(f)	WS06	<u>Water Supply Underground Injection Well :</u> split the fee amount into \$480 (increase), \$ 240, and \$ 90 (decrease) based upon EPA well code definitions of activities; add fee exclusion for residential facilities up to four units having only residential activities; and add a new category for Pre-Closure Notification/Registration with \$90 fee (decrease).
125	4.10(5)(x)	WS17	<u>Water Supply, WQA Permit:</u> Merge pump test approval WS18, add review days and increase the fee to \$3950
125	4.10(5)(y)	WS18	<u>Water Supply, Pump Test Permit:</u> Delete category
126	4.10(5)(aa)	WS20	<u>Water Supply Construction Permit:</u> allow concurrent review with WS19 using WS19 review schedule

5/13/04 INDEX TO AMENDMENTS REGULATION PACKAGE 2004-1

130.4	4.10(7)(a)(1)	WP57	<u>Title 5 Permit</u> : decrease review time; add reference to a presumptive approval
130.5	4.10(7)(a)(3)	WP59	<u>Title 5 Permit</u> : delete fee sub-category of parallel septic tank approvals (fee decrease); split the review schedule with a longer review for a variance; add reference to a presumptive approval
130.6	4.10(7)(a)(5)	WP61	<u>Title 5 Permit</u> : change review schedule and fee from an individual rule project to 30-90-60-60 days and fee of \$1500 (fee increase)
130.7	4.10(7)(a)(8)	WP64	<u>Title 5 Permit</u> : split the review schedule with a shorter review for a tight tank and a reference to a presumptive approval
130.7	4.10(7)(a)(9)	WP65	<u>Title 5 single family dwelling system with alternate perc rate Permit</u> : delete category (fee decrease)
130.8	4.10(7)(a)(12)	WP70	<u>Title 5 Permit: alternative flow design</u> : add new category with 60-90-30 review schedule and \$1100 fee (new fee)
140	4.10(7)(oo)	WP46	<u>Wastewater Treatment Plant Operator Certification Exam</u> : delete
141	4.10(7)(rr)	WP69	<u>Wastewater Treatment Plant Operator Certification Renewal</u> : delete
144.3	4.10(7)(n)	WW18	<u>Wetlands Notice of Intent/Abbreviated NOI</u> : add category with a 21-21-21 day review and a fee formula (fee increase)
144.3	4.10(7)(o)	WW19	<u>Wetlands Superceding Determination of Applicability</u> : add category with a 70-70-40 day review schedule and \$100 fee (increase)
144.3	4.10(7)(p)	WW20	<u>Wetlands Superceding Order of Conditions</u> : add category with a 70-70-40 day review and a \$200 individual residence fee and \$500 all other applicants (fee increase)
144.3	4.10(7)(q)	WW21	<u>Wetlands Superceding Order of Resource Area Delineation</u> : add category with a 70-70-40 day review and a \$100 fee (increase)
144.3	4.10(7)(r)	WW22	<u>Wetlands Variance</u> : add category with a 70-70-40 day review and a \$8000 fee (increase)
144.3	4.10(7)(s)	WW23	<u>Wetlands Variance with claim of unconstitutional taking of property</u> : add category with a 70-70-40 day review and a \$200 fee (increase)

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**Redline Amendment Text For 310 CMR 4.00,
Timely Action Schedule and Fee Provisions
Regulation Package 2004-1**

regulation page 71

- 4.01 (2) Authority. 310 CMR 4.00 is adopted pursuant to M.G.L.c.21A, §18 , M.G.L.c.21E, §3B, and M.G.L.c.131, §40.

regulation page 74

4.03: Annual Compliance Assurance Fee

(1) (e) Notwithstanding 310 CMR 4.03(1)(b), annual compliance assurance fees pursuant to M.G.L. c.21E shall be payable for each billable year until and including the year that the requirements of a Class A or B Response Action Outcome are met and a Class A or B Response Action Outcome Statement is filed for the entire disposal site pursuant to 310 CMR 40.1000 or a Downgradient Property Status submittal is filed pursuant to 310 CMR 40.0180.

(2)Fee amounts by permit category. The annual compliance assurance fee for each permit shall be the fee set forth in Table 4.03.

(3)

TABLE 4.03

ANNUAL FEE (dollars)	PERMIT CATEGORY
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regulation page 74.1

AIR QUALITY

\$1,435	Minor - a facility holding a BWPAQ09 (Restricted Emissions Status) permit pursuant to 310 CMR 7.02(9); or other enforceable restriction on the facility's potential emission to greater than 50% but less than major source thresholds per regulated pollutant or Hazardous Air Pollutant (HAP), pursuant to 310 CMR 7.00 <i>et al</i> or other enforceable limits; or subject to a New Source Performance Standard (NSPS-40 CFR 60), or a National Emission Standard for Hazardous Air Pollutants (NESHAPs - 40 CFR 61) both delegated to the Department prior to July 1, 1992, and with <u>potential</u> emissions greater than 50% but less than major source thresholds per pollutant. The fee covers all air pollution inspections and registrations for the facility except stack tests, and excluding dry cleaner, photo processor, and printer certifiers pursuant to 310 CMR 70.00, effective June 27, 2003 <u>August 13, 2004</u> .
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regulation page 86

4.05

- (1)(b) to permit applications and projects, except those pursuant to M.G.L.c.21E, §3B and 310 CMR 40.0000 and except Notices of Intent pursuant to M.G.L.c.131 §40 and 310 CMR 4.10(8)(n), for which the Department finds that due to the size, novelty, complexity, or technical difficulty of the project....

Regulation page 94.4

Hazardous Waste Recycling.

- (a)(1) (BWPHW21) Hazardous waste recycling permits
1. Category: Class A recycling presumptive approval permit/renewal.
 2. Description: Class A recycling permit and permit renewals for Class A regulated recyclable material pursuant to 310 CMR 30.221(2) ~~(a)~~ for recycling activities described in Table 1, 310 CMR 30.221 and designated by an "N".
 3. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ August 13, 2004,
- a. Within 21 days the Department shall complete a technical review.
- b. The permit applicant may remedy identified deficiencies within 21 days of the Department's statement identifying deficiencies, if any.
 - c. Within 21 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a final review.
4. Permit Application fee: \$130

Regulation page 95-96

- (d)(1) (BWPHW25) Hazardous waste recycling permits.
1. Category: Level III recycling permits
 2. Description:
 - a. applications pursuant to 310 CMR 30.224 for a permit to recycle regulated recyclable materials described in 310 CMR 30.212(3) **or** (5) through (8) ~~, or (11)~~ allowing applicants to accept for recycling such materials generated off the site of generation;
 - b. applications pursuant to 310 CMR 30.260(2) for a permit to market regulated recyclable **materials** described in 310 CMR 30.213(3);

- c. applications pursuant to 310 CMR 30.260(3) or 30.260(4) for a permit to recycle ~~regulated-recycle~~ regulated recyclable materials described in 310 CMR 30.213(3) in amounts equal to or greater than 100,000 gallons per year;
 - d. applications pursuant to 310 CMR 30.290 for a permit to **recycle** ~~recyclable~~ regulated recyclable materials described in 310 CMR 30.214.
- 2. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ **August 13, 2004**,
- a. Within 30 days of receipt of an application and payment of the permit application fee, the department shall complete an administrative completeness review.
- b. Within 120 days of determination of administrative completeness, the department shall complete a technical review.
 - c. The permit applicant may remedy identified deficiencies within 120 days of the department's statement identifying deficiencies, if any.
 - d. Within 120 days of receipt of materials from the applicant in response to the department's statement identifying deficiencies, the department shall complete a supplemental technical review.
 - e. **Within 30 days of the close of the period for public comment, including any public hearing, the department shall complete a public comment review.**
- 3. Permit application fee: \$7,775

Regulation page 98

Treatability Studies

- (k) (BWPHW07) Permits for hazardous waste
 - 1. Category: approval of hazardous waste treatability studies pursuant to 310 CMR 30.010 ~~, 30.099(23), and 30.104(19)~~ **30.104(3)(c)**.
 - 2. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ **August 13, 2004**,
 - a. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete an administrative completeness review.
 - b. Within 45 days of making a determination of administrative completeness, the Department shall complete a technical review.
 - c. The permit applicant may remedy identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.
 - d. Within 45 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.
 - 3. Permit application fee: \$2,195

Regulation page 99

TSD Facilities

- (l) (BWPHW08) Permits for hazardous waste treatment, storage, or disposal (TSD) facilities
 - 1. Category: license to operate or approval of closure plan for TSD facility.

2. Description: Licenses for facilities that treat, store, or dispose of hazardous wastes, pursuant to 310 CMR 30.010, ~~30.099(6) and (23)~~, 30.099, and 30.800; approval of closure plans for such facilities pursuant to 310 CMR 30.010 and 30.580.
3. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~July 1, 1992~~ August 13, 2004, individual rule project subject to 310 CMR 4.05.
4. Permit application fee: individual rule project subject to 310 CMR 4.05.

TSD Facility Modification

(m) (BWPHW09) Permits for TSD Facility Modifications

1. Category: Class I modifications
2. Description: modifications to TSD licenses pursuant to 310 CMR 30.852, which require prior written approval of the Department pursuant to 310 CMR 30.852(2)(b) and Table 30.852; and modifications to TSD licenses pursuant to 310 CMR ~~30.099(7)~~, 30.099(5) ~~30.099(8)~~, and 30.852, which require prior written approval of the Department pursuant to 310 CMR 30.852(2)(b) and Table 30.852.
3. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ August 13, 2004,
- a. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete an administrative completeness review.
 - b. Within 60 days of making a determination of administrative completeness, the Department shall complete a technical review.
 - c. The permit applicant may remedy identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.
 - d. Within 30 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.
 - e. The applicant may elect to follow the procedures for Class II modifications. If the applicant so elects, the fee and schedule provisions applicable to Class II modifications at 310 CMR 4.10(3)(n) shall apply.
4. Permit application fee: \$175

(n) (BWPHW10) Permits for TSD Facility Modifications

1. Category: Class II modifications
2. Description: Modifications of licenses for TSD facilities pursuant to 310 CMR 30.852(3) and Table 30.852; and modifications to TSD licenses pursuant to 310 CMR ~~30.099(7)~~, 30.099(5) ~~30.099(8)~~, and 30.852(2).
3. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ August 13, 2004,
 - a. ~~The permit application fee shall be due at when the applicant files an application with the Department.~~ Within 120 days of the latest date of receipt of the application, payment of the application fee and filing of the public notice required by 310 CMR 30.852(2), the Department shall complete a technical review. ~~an initial review.~~
 - ~~i. approve the application; or~~
 - ~~ii. deny the application; or~~
 - ~~iii. negotiate an IRP class III modification.~~

b. The permit applicant may remedy identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.

c. Within 45 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.

~~If the Department determines the modification must be reviewed as a Class III modification, the schedule for timely action for Class III modifications shall begin pursuant to 310 CMR 4.05.~~

4. Permit application fee: \$10,195

(o) (BWPHW11) Permits for TSD Facility Modifications

1. Category: Class III modifications

2. Description: Modifications of licenses for TSD facilities pursuant to 310 CMR 30.852(4) and Table 30.852 or 30.852(5); and modifications to TSD licenses pursuant to 310 CMR ~~30.099(7)~~, 30.099(5), ~~30.099(8)~~, and 30.852(3) or (4).

3. Schedule for timely action: ~~individual rule project subject to 310 CMR 4.05.~~ for projects for which applications are filed and fees received on or after August 13, 2004, individual rule project subject to 310 CMR 4.05.

4. Permit application fee: individual rule project subject to 310 CMR 4.05.

Research Facilities

(q) (BWPHW20) Permits for hazardous waste research facilities.

1. Category: license to operate a research facility where research studies are conducted.

2. Description: Licenses for facilities which intend to conduct research studies or otherwise engage in continuous research, development, and demonstration activities as defined in 310 CMR 30.010 and which require prior Department approval or approval to continue activities as required by 310 CMR ~~30.099(26)~~, ~~30.099(27)~~, 30.104(3)(d) and 30.864.

3. Schedule for timely action: for projects for which applications are filed and fees received on and after ~~March 24, 1995~~ August 13, 2004, individual rule project subject to 310 CMR 4.05.

4. Permit application fee: individual rule project subject to 310 CMR 4.05.

Underground Injection Control

(f) (BRPWS06) Permits for water supply, underground injection control.

1. Category: registration of underground injection wells pursuant to 310 CMR ~~27.00~~ 27.08; Underground Water Source Protection excluding residential facilities up to four units having only residential activities; and Pre-Closure Notification pursuant to 310 CMR 27.04 and 27.10.

2. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ **August 13, 2004**,
- a. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete an administrative completeness review.
 - b. Within 30 days of making a determination of administrative completeness, the Department shall complete a technical review.
 - c. The permit applicant may remedy identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.
- d. Within 30 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.
3. Permit application fee: ~~\$240~~
 - a. Well codes 5D4, 5A5, 5W20, and 5X25 pursuant to 40 CFR 144.6 and 146.5: ~~\$480~~
 - b. Well codes 5F1, 5A6, 5A19, 5S23, 5X27 pursuant to 40 CFR 144.6 and 146.5: ~~\$240~~
 - c. Well codes 5D2, 5G30, 5A7, 5A8, 5R21, 5B22, 5X29 pursuant to 40 CFR 144.6 and 146.5: ~~\$90~~
 - d. Pre-Closure Notification pursuant to 310 CMR 27.04 and 27.10: ~~\$ 90~~

Regulation page 125

- (x) (BRPWS17) Permits for water supply, water quality assurance: new source approval
 1. Category: Approval to site source 70 gallons per minute or greater ~~pursuant to 310 CMR 22.21~~ **and to conduct pumping test**.
 2. Description: approval of exploratory phase work, **site screening**, site examination, ~~and~~ land use survey **, and to conduct pumping test pursuant to 310 CMR 22.21**
 3. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ **August 13, 2004**,
 - a. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete an administrative completeness review.
 - b. Within 45 **90** days of making a determination of administrative completeness, the Department shall complete a technical review.
 - c. The permit applicant may remedy identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.
 - d. Within 45 **60** days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.
 4. Permit application fee: ~~\$1,580~~ **\$3950**
- (y) ~~(BRPWS18) Permits for water supply: water quality assurance: new source approval~~
 1. ~~Category: approval to conduct pumping test for source 70 gallons per minute or greater pursuant to 310 CMR 22.21~~
 2. ~~Schedule for timely action: for projects for which applications are filed and fees received on or after June 27, 2003,~~
 - a. ~~Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete an administrative completeness review.~~

- b. ~~Within 60 days of making a determination of administrative completeness, the Department shall complete a technical review.~~
- c. ~~The permit applicant may remedy identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.~~
- d. ~~Within 60 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.~~
- 3. ~~Permit application fee: \$2,370~~

Regulation page 126

- (aa) (BRPWS20) Permits for water supply: water quality assurance: new source approval.
 - 1. Category: approval to construct source 70 gallons per minute or greater pursuant to 310 CMR 22.21.
 - 2. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ August 13, 2004,
 - a. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete an administrative completeness review.
 - b. Within 60 days of making a determination of administrative completeness, the Department shall complete a technical review.
 - c. The permit applicant may remedy identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.
 - d. Within 60 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.
 - e. A BRPWS20 application may be submitted concurrently with a BRPWS19 application in which case both permits will be subject to the BRPWS19 application schedule for timely action.
 - 3. Permit application fee: \$2,370

Regulation page 130.4

Title 5

- (a)(1) (BRPWP57) Permits for Water Pollution Control: Title 5
 - 1. Category: approval for installation of a recirculating sand filter or approved equivalent alternative technology pursuant to 310 CMR 15.202.
 - 2. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ August 13, 2004,
 - a. Within ~~60~~ 30 days of receipt of an application and payment of the permit application fee, the Department shall complete a technical review. The permit is presumptively approved pursuant to 310 CMR 15.202(5) unless the Department issues the permit with conditions, denies the permit or issues a technical deficiency notice.

- b. The permit applicant may remedy identified deficiencies within ~~60~~ 30 days of the Department's statement identifying deficiencies, if any.
 - c. Within ~~60~~ 30 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review. The permit is presumptively approved pursuant to 310 CMR 15.202(5) unless the Department issues the permit with conditions or denies the permit.
3. Permit application fee: \$430

Regulation page 130.5

- (a)(3) (BRPWP59) Permits for Water Pollution Control: Title 5
- 1. Category: approval for ~~parallel septic tank or~~ septic tank integral to a sanitary sewer or approval of variance
 - 2. Description:
 - a. Approval pursuant to ~~310 CMR 15.225 or~~ 310 CMR 15.354(2), or
 - b. Approval of variances pursuant to 310 CMR 15.412(2), granted by Board of Health, except variance for increased flow to existing system or
 - c. Approval of variance granted by Board of Health for increased flow pursuant to 310 CMR 15.414 or DEP issuance of variance for increased flow pursuant to 310 CMR 15.414
 - 3. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ August 13, 2004,
 - a. **Septic tank integral to a sanitary sewer**
 - i. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete a technical review.
 - ii. The permit applicant may remedy any identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.
 - iii. Within 30 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.
 - b. **Variance**
 - i. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete a technical review. The permit is presumptively approved pursuant to 310 CMR 15.412(2) unless the Department issues the permit with conditions, denies the permit or issues a technical deficiency notice.
 - ii. The permit applicant may remedy any identified deficiencies within 30 days of the Department's statement identifying deficiencies, if any.
 - iii. Within 30 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review. The permit is presumptively approved pursuant to

310 CMR 15.412(2) unless the Department issues the permit with conditions, denies the permit or issues a technical deficiency notice.

4. Permit application fee: \$285

Regulation page 130.6

(a)(5) (BRPWP61) Permits for Water Pollution Control: Title 5

1. Category: approval and renewal of approval or certification of alternative systems, approval of alternatives to grease traps, upgrades of failing large systems, and determinations that certain Title 5 provisions are manifestly unjust.
2. Description:
 - a. Approval of alternative systems for remedial use pursuant to 310 CMR 15.284, or
 - b. Approval of alternative systems for pilot use, provisional use, or certification for general use and installations approved thereunder, pursuant to 310 CMR 15.281 through 15.288, or
 - c. Approval of alternative devices for grease removal pursuant to 310 CMR 15.230(12), or
 - d. Upgrades for failing large systems pursuant to 310 CMR 15.304, or
 - e. Determination that enforcement of the groundwater discharge permit requirements is manifestly unjust for a large system which is a significant threat pursuant to 310 CMR 15.304(2), or
- f. Renewal of alternative system approval or certification where the expiration of an existing approval or certification is established as a special condition or provision pursuant to 310 CMR 15.285(4) or 15.286(3) or 15.288(3) and 15.284.
3. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~February 4, 2000~~ **August 13, 2004**,
 - a. ~~Sections a-e: Individual Rule Project subject to 310 CMR 4.05~~
Within 30 days of receipt of an application and payment of the permit application fee, the department shall complete an administrative review.
 - b. ~~ii. Within 60- 90~~ **90** days of making a determination of administrative completeness, the Department shall complete a technical review.

~~—Section f:~~

 - ~~i. Within 30 days of receipt of an application and payment of the permit application fee, the department shall complete an administrative review.~~
 - ~~ii. Within 60 days of making a determination of administrative completeness, the Department shall complete a technical review.~~
 - ~~iii. The permit applicant may remedy identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.~~
 - ~~iv. Within 60 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.~~
 - c. iii.** The permit applicant may remedy identified deficiencies

within 60 days of the Department's statement identifying deficiencies, if any.

~~d. iv.~~ Within 60 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.

4. Permit Application fee: **\$1500**

~~a. Sections a-e: individual rule project subject to 310 CMR 4.05—~~

~~b. Section f: \$345~~

Regulation page 130.7

(a)(8) (~~BRPWP64~~) Permits for Water Pollution Control: Title 5

1. Category: approval of site use of alternative technology not included in other categories, and approval of tight tanks.

2. Description:

a. Approval of a tight tank pursuant to 310 CMR 15.260, or

b. Approval of installation of an alternative system for pilot use pursuant to 310 CMR 15.281 and 15.285, excluding approved grease devices or systems approved pursuant to BRPWP61 for piloting, provisional or general use, and excluding permits under BRPWP57, or

c. Approval of installation of alternative system pursuant to 310 CMR 15.284 for remedial use.

3. Schedule for timely action: for projects for which applications are filed and fees received on or after ~~June 27, 2003~~ **August 13, 2004**,

a. **Tight Tanks**

i. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete a technical review. The permit is presumptively approved pursuant to 310 CMR 15.260(1) unless the Department issues the permit with conditions, denies the permit or issues a technical deficiency notice.

ii. The permit applicant may remedy any identified deficiencies within 30 days of the Department's statement identifying deficiencies, if any.

iii. Within 30 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review. The permit is presumptively approved pursuant to 310 CMR 15.260(1) unless the Department issues the permit with conditions, denies the permit or issues a technical deficiency notice.

b. **Installation of alternative system for pilot use or remedial use**

i. Within 30 days of receipt of an application and payment of the permit application fee, the Department shall complete an administrative review.

ii. Within 60 days of making a determination of administrative completeness, the Department shall complete a technical review.

iii. ~~e.~~ The permit applicant may remedy identified deficiencies within 60 days of the Department's statement identifying deficiencies, if any.

iv. ~~d.~~ Within 60 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.

4. Permit application fee: \$430

~~(a)(9) (BRPWP65) Permits for Water Pollution Control: Title 5~~

~~1. Category: approval of system for a single family dwelling with an alternate percolation rate pursuant to 310 CMR 15.417.~~

~~2. Description: proposals accepted in writing by the Department for submitting applications for approval of alternate percolation rate pursuant to 310 CMR 15.417~~

~~3. Schedule for timely action: projects for which applications are filed and fees received on or after June 27, 2003,~~

~~a. Within 30 days of the date of acceptance of the application and payment of the permit application fee, the Department shall complete an administrative review.~~

~~b. Within 90 days of making a determination of administrative completeness, the Department shall complete a technical review.~~

~~c. The permit applicant may remedy identified deficiencies within 90 days of the Department's statement identifying deficiencies, if any.~~

~~d. Within 60 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.~~

~~4. Permit application fee: \$645~~

Regulation page 130.8 insert new text

(a)(12) (BRPWP70) Permits for Water Pollution Control: Title 5

1. Category: alternative design flow

2. Description: Request for alternative design flow pursuant to 310 CMR 15.203(6)

3. Schedule for timely action: for projects for which applications are filed and fees received on or after August 13, 2004,

a. Within 60 days of receipt of an application and payment of the permit application fee, the Department shall complete a technical review.

b. The permit applicant may remedy any identified deficiencies within 90 days of the Department's statement identifying deficiencies, if any.

c. Within 30 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.

4. Permit application fee: \$1,100

Regulation page 140

Wastewater Treatment Plant Operators

~~(oo) (BRPWP46) Permits for water pollution control: licenses for wastewater treatment plant operators.~~

- ~~1. Category: certification through exam.~~
- ~~2. Description: certifications for the first six grades of wastewater treatment plant operators pursuant to 257 CMR 2.00 by examination and status review.~~
- ~~3. Schedule for timely action: for certifications for which applications are filed and fees received on or after June 27, 2003,~~
 - ~~a. Within 120 days of receipt of an application and payment of the application fee, the Board shall notify the applicant of the next available exam date, place and time.~~
 - ~~b. Within 30 days of the Board's receipt of the scores, the Board shall make a determination of status for all scores and notify applicant of their score and option to review the exam.~~
 - ~~c. Within 90 days of determination of passing status, the Board shall issue certificates.~~
- ~~4. Permit application fee: \$80~~

Regulation page 141

~~(rr) (BRPWP69) Permits for water pollution control: license renewal for wastewater treatment plant operators.~~

- ~~1. Category: certification renewal~~
- ~~2. Description: two year renewal of certification for the seven grades of waste water treatment plant operators pursuant to 257 CMR 2.00.~~
- ~~3. Schedule for timely action: for projects for which applications are filed and fees received on or after June 27, 2003,~~
 - ~~a. Within 90 days of receipt of an application and payment of the permit application fee, the Department shall complete a technical review.~~
 - ~~b. The permit applicant may remedy identified deficiencies within 90 days of the Department's statement identifying deficiencies, if any.~~
 - ~~c. Within 60 days of receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental technical review.~~
- ~~4. Permit application fee: \$60~~

Regulation page 144.3

insert text

4.10(8)

(n) (BRPWW18) Permits for Wetlands

1. Category: Notice of Intent and Abbreviated Notice of Intent.
2. Description: Notice of Intent and Abbreviated Notice of Intent pursuant to M.G.L.c.131§40 and 310 CMR 10.05(4). The designation of the Department's file number shall not imply that the plans and supporting documents have been judged adequate for the issuance of an Order, but only that copies of the minimum submittal requirements contained in the general instructions have been filed.

3. Schedule for timely action: for projects for which Notices of Intent or Abbreviated Notices of Intent are filed and fees received on or after August 13, 2004,

a. Within 21 days of receipt of a Notice of Intent or Abbreviated Notice of Intent and payment of the permit application fee, the Department shall complete an administrative completeness review.

b. The permit applicant may remedy identified deficiencies within 21 days of the Department's statement identifying deficiencies, if any.

c. Within 21 days of the Department's receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a final review resulting in a decision to issue or deny a file number.

4. Permit application fee: The fee, created pursuant to M.G.L.c.131§40, is for work proposed under a single Notice of Intent. When the application involves more than one activity the fee shall be determined by adding the fees for each proposed activity, except that when work involves activities within the riverfront area as well as another resource area, the fee shall be determined by adding an additional 50% to the fee calculated for activities in another resource area(s) or the buffer zone to another resource area for each of the proposed activities within the riverfront area

a. Category 1: \$110

b. Category 2: \$500

c. Category 3: \$1050

d. Category 4: \$1450

e. Category 5: \$4 per linear foot

f. Category 6: \$2 per linear foot with a maximum of \$200 for a single-family house project and a maximum of \$2000 for any other activity.

(o) (BRPWW19) Permits for Wetlands

1. Category: Superseding Determination of Applicability

2. Description: Superseding Determination of Applicability pursuant to 310 CMR 10.05(3)(c).

3. Schedule: for projects for which Requests for Superseding Determination of Applicability are filed and fees received on or after August 13, 2004,

a. Within 70 days of receipt of Request for Superseding Determination of Applicability and payment of the application fee, the Department shall complete technical review.

b. The permit applicant may remedy identified deficiencies within 70 days of the Department's statement identifying deficiencies, if any.

c. Within 40 days of the Department's receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Department shall complete a supplemental review.

4. Permit Application Fee: \$100

(p) (BRPWW20) Permits for Wetlands

1. Category: Superseding Order of Conditions

2. Description: Superseding Order of Conditions pursuant to 310 CMR 10.05(7).

3. Schedule: for projects for which Requests for Superseding Order of Conditions are filed and fees received on or after August 13, 2004,

- a. Within 70 days of receipt of Request for Superseding Order of Conditions and payment of the application fee, the Department shall complete technical review.
 - b. The permit applicant may remedy identified deficiencies within 70 days of the Department's statement identifying deficiencies, if any.
 - c. Within 40 days of the Department's receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Depart shall complete a supplemental review.
4. Permit Application Fee:
- a. Superseding Order of Conditions for individual single-family homes: \$200
 - b. All Other Superseding Order of Conditions: \$ 500

(q) (BRPWW21) Permits for Wetlands

1. Category: Superseding Order of Resource Area Delineation
2. Description: Superseding Order of Resource Area Delineation pursuant to 310 CMR 10.05(7).
3. Schedule: for projects for which Requests for Superseding Order of Resource Area Delineation are filed and fees received on or after August 13, 2004,
 - a. Within 70 days of receipt of Request for Superseding Determination of Applicability and payment of the application fee, the Department shall complete technical review.
 - b. The permit applicant may remedy identified deficiencies within 70 days of the Department's statement identifying deficiencies, if any.
 - c. Within 40 days of the Department's receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Depart shall complete a supplemental review.

(4) Permit Application Fee: \$100

(r) (BRPWW22) Permits for Wetlands

1. Category: Request for Variance
2. Description: Variance pursuant to 310 CMR 10.05(10).
3. Schedule: for projects for which Requests for Variance are filed and fees received on or after August 13, 2004,
 - a. Within 70 days of receipt of Request for Variance and payment of the application fee, the Department shall complete technical review.
 - b. The permit applicant may remedy identified deficiencies within 70 days of the Department's statement identifying deficiencies, if any.
 - c. Within 40 days of the Department's receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Depart shall complete a supplemental review.

4. Permit Application Fee: \$8,000

(s) (BRPWW23) Permits for Wetlands

1. Category: Request for Variance with a claim of unconstitutional taking of property.
2. Description: Variance with a claim of unconstitutional taking of property pursuant to 310 CMR 10.05(10).
3. Schedule: for projects for which Requests for Variance are filed and

fees received on or after August 13, 2004,

- a. Within 70 days of receipt of Request for Variance and payment of the application fee, the Department shall complete technical review.
- b. The permit applicant may remedy identified deficiencies within 70 days of the Department's statement identifying deficiencies, if any.
- c. Within 40 days of the Department's receipt of materials from the applicant in response to the Department's statement identifying deficiencies, the Depart shall complete a supplemental review.

(4) Permit Application Fee: \$200

**V. AMENDMENTS TO 801 CMR 4.02
 WETLANDS FEES**

Established pursuant to M.G.L.c.131 §40

Amendments to 801 CMR 4.00

4.02

~~310 Department of Environmental Protection~~

~~Wetlands and Waterways Program~~

~~(1) Wetlands Filing Fees—Notice of Intent and Abbreviated Notice of Intent Each Notice of Intent required to be filed on or after August 1, 1989 with a local conservation commission if any, or other issuing authority, pursuant to [310 CMR 10.00](#) shall be accompanied by a filing fee. The amount of the filing fee for each category of activity, which categories are defined by the regulations of the Department of Environmental Protection, [310 CMR 10.00](#), shall be determined by reference to the schedule set forth below. The fee for work proposed under a single Notice of Intent that involves more than one activity shall be determined by adding the fees for each proposed activity, except that when work involves activities within the riverfront area as well as another resource area, the fee shall be determined by adding an additional 50% to the fee calculated for activities in another resource area(s) or the buffer zone to another resource area for each of the proposed activities within the riverfront area.~~

Category 1	\$55	
Category 2	250	
Category 3	525	
Category 4	725	
Category 5	2	per linear foot
Category 6	1	per linear foot
		with a maxi-
		mum of \$ 100
		for a single
		family house
		project and
		\$ 1,000 for any
		other activity

~~No fee shall be assessed for projects of the federal government, the Department of Environmental Protection, or cities and towns of the Commonwealth.~~

~~(2) Wetlands Filing Fees—Requests for Action by the Department~~

(a)	Request for Superseding Determination of Applicability	\$ 50
(b)	Request for Superseding Order of	50

	Conditions or Superseding Order of Resource Area Delineation	
(e)	Request for a Variance, except as noted in (d), below	4000
(d)	Request for Variance where there is a claim that without the variance there will be an unconstitutional taking of property without just compensation	100